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Individually and on behalf of all others
similarly situated

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Anna Delgado, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

Food 4 Less of California, Inc.; and
Ralphs Grocery Company,

Defendant.

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF FAIR LABOR
STANDARDS ACT**

DEMAND FOR JURY TRIAL

1 Plaintiff Anna Delgado, individually and on behalf of all others similarly
2 situated, alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Anna Delgado ("Plaintiff") is an individual who worked for
5 Defendants Food 4 Less of California, Inc. and Ralphs Grocery Company
6 ("Defendants"). She brings this action on behalf of herself individually and a putative
7 class of non-exempt employees working throughout California and nationwide.

8 2. Defendants operate grocery store shopping centers throughout California
9 and nationwide.

10 3. Through this action, Plaintiff alleges that Defendant has engaged in a
11 systematic pattern of wage and hour violations under the Fair Labor Standards Act, 29
12 U.S.C. § 201 et. seq. ("FLSA").

13 4. Plaintiff brings this action based on Defendants' failure to maintain a
14 policy that compensates its employees for all overtime wages. On information and
15 belief, there are many similarly situated current and former non-exempt employees
16 who have not been paid for all hours worked over 40 in a workweek in violation of the
17 FLSA. For example, Defendant failed to include shift premiums into the regular rate
18 of pay for overtime compensation purposes when Plaintiff worked for Defendants
19 during the workweeks of March 9, 2020 through March 15, 2020 and August 3, 2020
20 through August 9, 2020.

21 5. Plaintiff brings this lawsuit seeking monetary relief against Defendants
22 on behalf of herself and all other similarly situated to recover, among other things,
23 unpaid wages and commissions, interest, attorneys' fees, costs, expenses, and penalties
24 pursuant to the FLSA.

25 **JURISDICTION AND VENUE**

26 6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331,
27 because this complaint alleges claims under the laws of the United States, specifically
28 the FLSA.

7. The United States District Court for the Northern District of California has personal jurisdiction over Defendant because many of the acts complained of and giving rise to the claims alleged took place in California and in this District.

THE PARTIES

8. Plaintiff is a citizen of California. Plaintiff was employed by Defendants during the FLSA time period. Details regarding Plaintiff's precise hours, pay, and revenue generated for Defendants are available by reference to Defendants' records.

9. Plaintiff is informed and believes, and thereon alleges, that Defendants at all times hereinafter mentioned, were employers as defined in and subject to the FLSA.

COLLECTIVE ACTION ALLEGATIONS

10. Plaintiff brings this action pursuant to the FLSA, 29 U.S.C. § 216(b), on behalf of herself and all similarly situated non-exempt employees who elect to opt into this action who work or have worked for Defendants as non-exempt employees nationwide in the past three (3) years ("the FLSA Class").

11. Defendants are liable under the FLSA for, inter alia, failing to properly compensate Plaintiff and other non-exempt employees. On information and belief, there are many similarly situated current and former non-exempt employees who have not been paid for all hours worked over 40 in a workweek in violation of the FLSA who would benefit from the issuance of a court-supervised notice regarding the present lawsuit and the opportunity to join it. Those similarly situated employees are known to Defendants, are readily identifiable, and can be located through Defendants' records, such that notice should be sent to them pursuant to 29 U.S.C. § 216(b).

FIRST CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Violation of 29 U.S.C. § 207, 211 & 29 C.F.R. § 516.2(b))

1. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

2. At all relevant times, Defendants have been an employer and Plaintiff

1 and its employees have been employees under Federal Law entitled to the
2 protections of the FLSA.

3 3. The FLSA requires employers to keep accurate records of hours
4 worked and wages paid, among other information, and to provide these records to
5 their employees. 29 U.S.C. § 211(c); 29 C.F.R. § 516.2(b). Defendants' practices
6 and policies were violations of these requirements.

7 4. Although Plaintiff and putative FLSA members periodically worked
8 more than 40 hours in a week, Defendants had a policy and practice of failing and
9 refusing to pay employees overtime and thus violated and continue to violate the
10 above-referenced overtime provisions of the FLSA. Indeed, during her
11 employment, Plaintiff worked over 40 hours without being paid all overtime earned.
12 For example, Defendant failed to include shift premiums into the regular rate of pay
13 for overtime compensation purposes when Plaintiff worked for Defendants during
14 the workweeks of March 9, 2020 through March 15, 2020 and August 3, 2020
15 through August 9, 2020.

16 5. Plaintiff and FLSA Members seeks the amount of the respective unpaid
17 wages owed to them, liquidated damages, attorneys' fees and costs pursuant to 29
18 U.S.C. §§ 201 et seq. and such other legal and equitable relief as the Court deems
19 just and proper.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated,
22 prays for judgment against Defendant as follows:

- 23 1. For certification of this action as a class action, including certifying the
24 FLSA Class alleged by Plaintiff;
- 25 2. For appointment of Anna Delgado as the class representative;
- 26 3. For appointment of Lebe Law, APLC as class counsel for all purposes;
- 27 4. For compensatory damages in an amount according to proof with interest
28 thereon;

10. For other relief as the Court deems just and proper.

LEBE LAW, APLC

By: /s/ Jonathan M. Lebe
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Plaintiff hereby demands a jury trial with respect to all issues triable of right by jury.

LEBE LAW, APLC

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